

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

CURTIS BRANDON,	:	CIVIL ACTION NO. 00-1656
Petitioner	:	
	:	
V.	:	Judge Gustave Diamond/
	:	Magistrate Judge Sensenich
PHILIP JOHNSON, Superintendent,	:	
S.C.I. Pittsburgh; and GERALD PAPPERT,	:	
Attorney General of PA.;	:	
Respondents'	:	

PETITIONER'S MOTION TO GRANT FED.R.CIV.P. RULE 60(b)
AND TO STRIKE ANY NEGATIVE RESPONDENTS' LATE RESPONSE

AND NOW, comes, CURTIS BRANDON, Petitioner, pro se, who files this said Motion pursuant to Fed.R.Civ.P. Rule 60(b), relative to his Federal Habeas Corpus Petition proceedings pursuant to 28 U.S.C. § 2254, and presents the facts in support thereto as the following:

A. PROCEDURAL HISTORY/FACTS

1. Petitioner filed his Fed.R.Civ.P. Rule 60(b) Motion with this Court dated October 30, 2005. ¶

2. This Court issued an ORDER directing Respondents' to file their response to Petitioner's Fed.R.Civ.P. Rule 60(b) Motion on or before December 2, 2005 via this Court's ORDER dated November 8, 2005. ¶

3. Petitioner files this present Motion since Respondents' have failed to file a timely response by this December 7, 2005 (as to this date Petitioner never received any response from the Respondents'). ¶

FILED

DEC 14 2005

CLERK, U.S. DISTRICT COURT
WEST. DIST. OF PENNSYLVANIA

FILED

DEC 14 2005

CLERK U.S. DISTRICT COURT
WEST. DIST. OF PENNSYLVANIA

B. REASONS FOR GRANTING PETITIONER'S FED.R.CIV.P. RULE 60(b) MOTION

1. The reasons for granting Petitioner's Fed.R.Civ.P. Rule 60(b) Motion is fully set forth in Petitioner's Fed.R.Civ.P. Rule 60(b) Motion currently filed in this Court dated October 30, 2005. ¶

2. This Court issued an ORDER directing Respondents' to file a response to Petitioner's Fed.R.Civ.P. Rule 60(b) Motion on or before December 2, 2005 via this Court's ORDER dated November 8, 2005. As of this date December 7, 2005 Petitioner has not received any response from the Respondents' and, this mandates that this Court should strike from the record any negative response Respondents' may try to assert; since it was not timely filed and Respondents' never filed for an extension of time to respond nor did this Court grant Respondents' an extension of time to respond. ¶

3. Therefore, by rule of absolute this Court should grant Petitioner's Fed.R.Civ.P. Rule 60(b) Motion being that there is not any timely opposition response to Petitioner's Fed.R.Civ.P. Rule 60(b) Motion. ¶

CONCLUSION

WHEREFORE, for the above-stated facts and reasons, Petitioner prays this Court will grant his Fed.R.Civ.P. Rule 60(b) Motion pursuant to this Court's inherent power.

Respectfully submitted,

By: Curtis Brandon
CURTIS BRANDON DV-2954
Box 244
Graterford, PA. 19426-0244
Petitioner, pro se

Date: December 7, 2005


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S.C.I. Pittsburgh; and GERALD PAPPERT,	:	
Attorney General of PA.;	:	
Respondents'	:	

CERTIFICATION OF SERVICE

I, CURTIS BRANDON, Petitioner, hereby certify that on December 7, 2005, I caused to be served a true and correct copy of the foregoing document entitled "PETITIONER'S MOTION TO GRANT FED.R.CIV.P. RULE 60(b) AND TO STRIKE ANY NEGATIVE RESPONDENTS' LATE RESPONSE" by depositing the same in the United States Mail, First-class, postage prepaid, to the person listed below as the following:

Paul R. Scholla, Esquire
Assistant District Attorney
Office of the District Attorney
County of Allegheny
303 Courthouse
Pittsburgh, PA. 15219-2489


CURTIS BRANDON
Petitioner, pro se